

DEPARTMENT OF EDUCATION

SUPERINTENDENT OF PUBLIC INSTRUCTION

SPECIAL EDUCATION PROGRAMS AND SERVICES

These rules take effect immediately upon filing with the Secretary of State unless adopted under section 33, 34, 45a(6), or 48 of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By the authority conferred on the superintendent of public instruction by sections 1701 and 1703 of 1976 PA 451, MCL 380.1701 and MCL 380.1703, and Executive Reorganization Order Nos. 1996-6 and 1996-7, MCL 388.993 and MCL 388.994)

R 340.1701, R 340.1701a, R 340.1701b, R 340.1701c, R 340.1713, R 340.1721e, R 340.1722a, R 340.1722e, R 340.1723c, R 340.1724, R 340.1724d, R 340.1724f, R 340.1724h, R 340.1724i, R 340.1738, R 340.1748, R 340.1771, R 340.1772, R 340.1790, R 340.1810, R 340.1832, R 340.1837, and R 340.1861 of the Michigan Administrative Code are amended; and R 340.1724a, R 340.1724c, R 340.1724e, and R 340.1724g are rescinded from the Code as follows.

R 340.1701 Assurance of compliance.

Rule 1. All public agencies in the state, as those agencies are defined at 34 C.F.R. §300.22 ~~33~~ of the regulations implementing the individuals with disabilities education act, 20 U.S.C. chapter 33, §1400 et seq., shall comply with these rules; all provisions of the state's application for federal funds under part B **and part C** of the individuals with disabilities education act, 20 U.S.C. chapter 33, §1400 et seq.; the requirements of part B **and part C** of the individuals with disabilities education act; and the regulations implementing the individuals with disabilities education act, 34 C.F.R. part 300 **and 34 C.F.R. part 303**, which are adopted by reference in these rules. Copies are available, at cost, from the Government Printing Office, Superintendent of Documents, P.O. Box 37195-7954, Pittsburgh, PA, 15250, or from the Center for Educational Networking, Eaton Intermediate School District, 1790 East Packard Highway, Charlotte, MI, 48813.

R 340.1701a Definitions; A to D.

Rule 1a. As used in these rules:

(a) "Adaptive behavior" means a student's ability to perform the social roles appropriate for a person of his or her age and gender in a manner that meets the expectations of home, culture, school, neighborhood, and other relevant groups in which he or she participates.

(b) "Agency" means a public or private entity or organization, including the local school district, public school academy, intermediate school district, the department, and any other political subdivision of the state that is responsible for providing education or services to students with disabilities.

(c) "Complaint" means a written and signed allegation that includes the facts on which the allegation is based, by an individual or an organization, that there is a violation of any of the following:

- (i) Any current provision of these rules.
- (ii) 1976 PA 451, MCL 380.1 et seq., as it pertains to special education programs and services.
- (iii) The individuals with disabilities education act of ~~1997~~ **2004**, 20 U.S.C., chapter 33, §1400 et seq., and the regulations implementing the act, 34 C.F.R. part 300 **and 34 C.F.R. part 303.**
- (iv) An intermediate school district plan.
- (v) An individualized education program team report, hearing officer decision, **administrative law judge decision**, or court decision regarding special education programs or services.
- (vi) The state application for federal funds under the individuals with disabilities education act.
- (d) "Department" means the state department of education.
- (e) "Departmentalize" means a delivery system in which 2 or more special education teachers teach groups of students with disabilities by instructional content areas.

R 340.1701b Definitions; I to P.

Rule 1b. As used in these rules:

- (a) "Instructional services" means services provided by teaching personnel that are specially designed to meet the unique needs of a student with a disability. These may be provided by any of the following:
 - (i) An early childhood special education teacher under R 340.1755.
 - (ii) A teacher consultant under R 340.1749.
 - (iii) A teacher of the speech and language impaired under R 340.1745.
 - (iv) A teacher providing instruction to students with disabilities who are homebound or hospitalized.
 - (v) A teacher providing instruction to students who are placed in juvenile detention facilities under R 340.1757.
- (b) "Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating a student suspected of having a disability. The team shall include at least 1 special education teacher or other specialist who has knowledge of the suspected disability.
- (c) "Normal course of study" means a general or a special education curriculum leading to a high school diploma.
- (d) "Occupational therapy" means therapy provided by a therapist who has been registered by the American occupational therapy association or an occupational therapy assistant who has been certified by the American occupational therapy association and who provides therapy under the supervision of a registered occupational therapist.
- (e) "Parent" means any of the following:
 - (i) A ~~natural~~ **biological** or adoptive parent of a ~~student or youth with a disability~~ **child**.
 - (ii) A ~~guardian, but not the state, if the student or youth with a disability is a ward of the state~~ **foster parent, unless state law, regulations, or contractual obligations with a state or local entity prohibit a foster parent from acting as a parent.**
 - (iii) A ~~person acting in the place of a parent, such as a grandparent or stepparent with whom the student or youth with a disability lives or a person who is legally responsible for the welfare of a student or youth with a disability~~ **guardian generally authorized to act as**

the child's parent, or authorized to make educational decisions for the child, but not the state if the child is a ward of the state.

~~(iv) An surrogate parent who has been appointed in accordance with state board of education policy individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the child lives, or an individual who is legally responsible for the child's welfare.~~

(v) A foster parent if both of the following provisions are satisfied: surrogate parent who has been appointed in accordance with R 340.1725f.

~~(A) The natural parent's authority to make educational decisions on behalf of the student or youth with a disability has been extinguished under state law.~~

~~The foster parent satisfies all of the following provisions:~~

~~(1) Has an ongoing, long term parental relationship with the student or youth with a disability.~~

~~(2) Is willing to make the educational decisions required of parents.~~

~~(3) Has no interest that would conflict with the interests of the student or youth with a disability.~~

(vi) Except as provided in paragraph (vii) of this subdivision, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraphs (i) to (v) of this subdivision to act as a parent, shall be presumed to be the parent unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.

(vii) If judicial decree or order identifies a specific person or persons under paragraphs (i) to (iv) of this subdivision to act as the parent of a child, or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the parent.

~~(vi)~~ **(viii)** The affected student or youth with a disability when the student or youth with a disability reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.

(f) "Parent advisory committee" means a committee of parents of students with disabilities of a particular intermediate school district appointed by the board of that district under R 340.1838.

(g) "Physical therapy" means therapy prescribed by a physician and provided by a therapist who is licensed by the state of Michigan under 1978 PA 368, MCL 333.1101 et seq. or a physical therapy assistant who provides therapy under the supervision of a licensed physical therapist.

R 340.1701c Definitions; R to Y.

Rule 1c. As used in these rules:

(a) "Related services" means services defined at 34 C.F.R. §300.24 ~~34~~ and ancillary services as defined in 1976 PA 451, MCL 380.1 et seq., which is available for public review at the department and at intermediate school districts.

(b) "Services" means instructional or related services as defined in these rules.

(c) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique educational needs of the student with a disability and to develop the student's maximum potential. Special education includes instructional services defined in R 340.1701b(a) and related services.

(d) "Youth placed in a juvenile detention facility" means a student who is placed by the court in a detention facility for juvenile delinquents and who is not attending a regular school program due to court order.

R 340.1713 Specific learning disability defined; determination.

Rule 13. (1) "Specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in ~~an~~ **the** imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations-, ~~The term includes such~~ **including** conditions **such** as perceptual ~~impairments~~ **disabilities**, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. ~~The term Specific learning disability~~ does not include ~~children who have~~ learning problems that are primarily the result of a visual, hearing, or motor ~~impairment~~ **disabilities**, of a cognitive impairment, of ~~an~~ emotional impairment, of autism spectrum disorder, or of environmental, cultural, or economic disadvantage.

~~(2) The individualized education program team may determine that a child has a specific learning disability if the child does not achieve commensurate with his or her age and ability levels in 1 or more of the areas listed in this subrule, when provided with learning experiences appropriate for the child's age and ability levels, and if the multidisciplinary evaluation team finds that a child has a severe discrepancy between achievement and intellectual ability in 1 or more of the following areas:~~

- ~~(a) Oral expression.~~
- ~~(b) Listening comprehension.~~
- ~~(c) Written expression.~~
- ~~(d) Basic reading skill.~~
- ~~(e) Reading comprehension.~~
- ~~(f) Mathematics calculation.~~
- ~~(g) Mathematics reasoning.~~

~~(3) The individualized education program team shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of any of the following:~~

- ~~(a) A visual, hearing, or motor impairment.~~
- ~~(b) Cognitive impairment.~~
- ~~(c) Emotional impairment.~~
- ~~(d) Autism spectrum disorder.~~
- ~~(e) Environmental, cultural, or economic disadvantage.~~

~~(4) At least 1 individualized education program team member other than the student's general education teacher shall observe the student's academic performance in the general education classroom setting. For a child who is less than school age or who is out of school, an individualized education program team member shall observe the child in an environment appropriate for a child of that age.~~

~~(5) For a student suspected of having a specific learning disability, the documentation of the individualized education program team's determination of eligibility shall include a statement concerning all of the following:~~

- ~~(a) Whether the student has a specific learning disability.~~
- ~~(b) The basis for making the determination.~~
- ~~(c) The relevant behavior noted during the observation of the student.~~

- ~~(d) The relationship of that behavior to the student's academic functioning.~~
- ~~(e) The educationally relevant medical findings, if any.~~
- ~~(f) Whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services.~~
- ~~(g) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.~~
- ~~(6) Each individualized education program team member shall certify, in writing, whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusions.~~
- ~~(7)~~ **(2)** A determination of learning disability shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:
 - (a) The student's general education teacher or, if the student does not have a general education teacher, a general education teacher qualified to teach a student of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.
 - (b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, an authorized provider of speech and language under R 340.1745(d), or a teacher consultant.
- (3) In determining whether a student has a learning disability, the public agency may use a process that determines if the student responds to scientific, research-based interventions and is not required to consider whether a student has a severe discrepancy between achievement and intellectual ability in oral expression, listening comprehension, written expression, basic reading skill, reading comprehension, mathematical calculation, or mathematical reasoning.**

R 340.1721e Individualized education program team meeting; determination of eligibility for special education programs and services; individualized education program.

Rule 21e. (1) The superintendent or his or her designee shall convene an individualized education program team meeting.

(2) An individualized education program shall be based on all diagnostic, medical, and other evaluative information requested by the team, or provided by the parent or student who is disabled and shall include all of the following information, in writing:

- (a) A statement of the student's present level of educational performance.
- (b) A statement of annual goals, ~~including short-term objectives.~~
- ~~(b)~~ **(c) For students who take alternate assessments aligned to alternate achievement standards, a statement of annual goals and short-term objectives.**
- ~~(c)~~ **(d)** Appropriate objective criteria and evaluation procedures and schedules for determining whether the objectives are being achieved.
- (3) The individualized education program team shall determine whether the student has a need for placement with a special education teacher who is endorsed in a particular disability category. ~~This subrule takes effect on July 1, 2003.~~
- (4) Any participant in the individualized education program team's deliberations who disagrees, in whole or in part, with the team's determination may indicate the reasons ~~therefore~~ on the team's individualized education program report or may submit a written statement to be attached to the report.

(5) The Michigan school for the deaf shall be considered a part of the total continuum of services for students with a hearing impairment. The resident district shall conduct the individualized education program team meeting that initiates an assignment into the Michigan school for the deaf. Representatives of the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized education program team meeting. The state board of education shall adopt procedures for placement at the Michigan school for the deaf.

(6) The Michigan school for the blind shall be considered a part of the total continuum of services for students with a visual impairment. The resident district shall conduct the individualized education program team meeting that initiates an assignment into the Michigan school for the blind. Representatives of the intermediate school district of residence and the Michigan school for the blind shall be invited to participate in the individualized education program team meeting. The state board of education shall adopt procedures for placement at the Michigan school for the blind.

R 340.1722a Implementation of individualized education program.

Rule 22a. (1) The superintendent of the school district of residence, upon receipt of the individualized education program, shall, within 7 calendar days, provide written notice to the parent of the agency's intent to ~~implement~~ **initiate or refuse to initiate** special education programs and services. The notice shall identify where the programs and services are to be provided and when the individualized education program begins.

(2) The parent, upon receipt of notification from the superintendent, shall have the right, at any time, to appeal the decision under R 340.1724. If the parent does not appeal, then the superintendent shall initiate the individualized education program as soon as possible, but not later than 15 school days after the parent has been notified. An initiation date may be later than 15 school days if clearly specified in the individualized education program; however, a projected initiation date shall not be used to deny or delay programs or services because they are not available and shall not be used for purposes of administrative convenience.

(3) **For the purposes of 34 C.F.R. 300.300(b),** if a student with a disability is to be provided special education or related services for the first time, then the parent has 10 calendar days after receipt of the notice from the superintendent to provide the public agency with written consent to provide special education programs and services. ~~If the parent refuses consent or does not respond, then the public agency has the right to request a hearing under R 340.1724.~~

(4) Each public agency shall provide special education and related services to a student with a disability in accordance with the student's individualized education program.

R 340.1722e Previous enrollment in special education.

Rule 22e. (1) If a student who currently receives special education programs or services enrolls in a new school district, then the new school district shall do either of the following:

(a) With the parent's consent, immediately implement the student's current individualized education program.

(b) With the parent's consent, immediately place the student in an appropriate program or service and convene an individualized education program team meeting within 30 school days to develop an individualized education program.

(2) If the parent does not provide consent for placement, then the school district, **in consultation with the parents, shall provide a free appropriate public education to the student, including services comparable to those described in the student's individualized education program from the previous public agency** ~~will implement the student's current individualized education program to the extent possible and.~~ **A** ~~an~~ individualized education program team meeting shall be convened to develop a new individualized education program as soon as possible, but not later than 30 school days.

R 340.1723c Right to independent educational evaluation.

Rule 23c. (1) Each public agency shall provide parents with information about independent educational evaluations at public expense. The information shall include all of the following:

- (a) Criteria regarding credentials for qualified examiners.
- (b) Suggested sources and locations.
- (c) Procedures for reimbursement.
- (d) Reasonable expected costs.

(e) Notification that the parent is not restricted to choosing from sources suggested by the public agency.

(2) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. **A parent is entitled to only 1 independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.** The parent shall submit the parent's disagreement and request in written, signed, and dated form. However, the public agency may initiate a hearing under R 340.1724 to show that its evaluation is appropriate. The public agency shall respond, in writing, to the request within 7 calendar days of its receipt by indicating the public agency's intention to honor the request or to initiate the hearing procedure under R 340.1724. If the hearing officer determines that the evaluation is appropriate, then the parent still has the right to an independent educational evaluation, but not at public expense.

(3) ~~The school district~~ **public agency** shall disclose to the parent, before evaluation, whether the examiner who was contracted to provide an independent educational evaluation provides services to the public agency that are in addition to the independent educational evaluation.

(4) An independent educational evaluation shall not be conducted by an examiner or examiners who otherwise or regularly contract with the public agency to provide services, unless the examiner or examiners are agreeable to the parent.

R 340.1724 ~~Impartial and~~ **Due process hearing complaints filed before July 1, 2006.**

Rule 24.(1) **This rule applies only to due process complaints filed before July 1, 2006.**

~~(1)~~ **(2)** A parent, the school district of residence, the school district of operation, the Michigan schools for the deaf and blind, or the department may initiate a hearing on any of the matters relating to the identification, evaluation, educational placement of the student, or the provision of a free appropriate public education. The party initiating a hearing shall notify the other parties, in writing, of its intent to initiate the hearing.

~~(2)~~ (3) The hearing shall be arranged or conducted by the district of residence and the district of residence shall pay all direct costs incurred by the school district as a result of arranging or conducting the hearing.

~~(3)~~ (4) Before the appointment or selection of a hearing officer, the hearing may be delayed or terminated upon written stipulation by the public agency and the parent. The agency responsible for the hearing shall submit the written stipulation to the department. After the appointment or selection of a hearing officer, the hearing may be delayed with the approval of the hearing officer or terminated upon written stipulation of the public agency and the parent. A copy of the stipulation to terminate shall be provided to the hearing officer and to the department.

(5) **The superintendent of the public agency shall contract for the services of an impartial hearing officer who is mutually agreeable to both parties or who has been appointed by the department. If the parent and the public agency cannot agree on a hearing officer within 14 calendar days following the hearing request, then the superintendent shall immediately request that the department of education appoint an impartial hearing officer according to procedures established by the department.**

(6) A hearing shall not be conducted by an employee or board member of the involved local school district, of another local school district within the same intermediate school district, of a public school academy within the same intermediate school district, or of the intermediate school district of which the involved local school district is a part.

(7) Each public agency shall keep a current department-developed and department-distributed list of the persons trained as hearing officers according to procedures established by the department who serve as hearing officers. This list shall be provided to parents upon any request for a hearing. The list shall include a statement of qualifications of each of the listed persons.

~~(4)~~ (8) Each public agency responsible for arranging or conducting a hearing shall immediately forward to the department 2 copies of the hearing decision~~;~~, 1 with all personal identifiers pertaining to the student deleted, and 1 with personal identifiers included.

~~(5)~~ (9) The department shall send a copy of the decision to the intermediate school district with a notice to inform the department that the decision has been implemented.

~~(6)~~ (10) Any party who is aggrieved by the findings and the decision of a hearing conducted under this rule may **request a state review of the decision. State review of a local hearing decision is administered by the department of education. A request for state review of a local hearing decision shall be received by** ~~appeal to the department~~ within 25 calendar days of receipt of the decision ~~for a state review~~. The appealing party shall send a copy of the party's **request for a state review** ~~appeal~~ to the other party. ~~The department of education shall adopt procedures for appointment of review officers and an appeal process.~~

(11) Upon receipt of a request for a state review filed under subrule (10) of this rule, the department of education shall refer the request to the state office of administrative hearings and rules who shall appoint an administrative law judge to conduct the review in accordance with the individuals with disabilities education act, 20 U.S.C. §1401 et. seq., 1976 PA 451, MCL 380.1701 et. seq. and R 340.1883 to R 340.1885.

(12) Any party who is aggrieved by the final decision in a state review conducted under this rule may appeal to a court of competent jurisdiction within 90 days after the mailing date of the final decision.

~~(7) (13)~~ In the absence of an appeal, unless otherwise specified in the ~~hearing officer's decision~~ **administrative law judge's state review decision**, or the reviewing official's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

R 340.1724a Impartial hearing officer; appointment. Rescinded.

~~Rule 24a. (1) The superintendent of the public agency shall contract for the services of an impartial hearing officer who is mutually agreeable to both parties or who has been appointed by the department. If the parent and the public agency cannot agree on a hearing officer within 14 calendar days following the hearing request, then the superintendent shall immediately request that the department appoint an impartial hearing officer according to procedures established by the department.~~

~~(2) A hearing shall not be conducted by an employee or board member of the involved local school district, of another local school district within the same intermediate school district, of a public school academy within the same intermediate school district, or of the intermediate school district of which the involved local school district is a part.~~

~~(3) Each public agency shall keep a current department developed and department-distributed list of the persons trained as hearing officers according to procedures established by the department who serve as hearing officers. This list shall be provided to parents upon any request for a hearing. The list shall include a statement of qualifications of each of the listed persons.~~

R 340.1724c Expedited hearings. Rescinded.

~~Rule 24c. (1) The expedited hearing process shall be a 1 tier hearing process. The superintendent or chief executive officer of each public agency shall contract for the services of a mutually agreed upon impartial special education hearing officer within 5 business days of receipt of a written request for an expedited hearing.~~

~~(2) If the parties to an expedited hearing cannot mutually agree on the selection of an impartial special education hearing officer, then the public agency shall request the department to immediately appoint a special education hearing officer from the current department developed and department distributed list of the persons who serve as hearing officers as required by R 340.1724a(3).~~

~~(3) Expedited hearings shall address only those issues of disagreement relating to any of the following:~~

~~(a) A determination that a student's behavior was not a manifestation of the student's disability.~~

~~(b) A decision regarding the provision of an appropriate interim alternative educational setting.~~

~~(c) Seeking an interim alternative setting for not more than 45 days for a student who may demonstrate potential harmful or injurious behavior to himself, herself, or others.~~

~~(4) The parties to an expedited hearing shall, within 5 business days before the hearing, provide the other party with a list of potential witnesses and any documents to be used as evidence, including, but not limited to, any pertinent evaluations and recommendations.~~

~~(5) The special education hearing officer has the authority to rule on a request to bar any evidence to be used in an expedited hearing not disclosed to the other party at least 5 business days before the expedited hearing only when the introduction of evidence is disputed by the other party.~~

~~(6) The special education hearing officer shall render and mail a final decision to all parties within 45 calendar days after the receipt of the written request for an expedited hearing from the superintendent or chief executive officer or his or her designee without exceptions or time extensions.~~

~~(7) Any party to the expedited hearing who is aggrieved by the decision of the hearing officer may appeal the decision to a court of competent jurisdiction.~~

R 340.1724d Mediation.

Rule 24d.(1) A parent or public agency may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties of a dispute that might be the subject of a **state special education** complaint under part 8 of the rules or a due process hearing **complaint** under R 340.1724 or R 340.1724(e)(f).

~~(2) The mediator shall be subject to mutual agreement by the parties.~~

~~(3)~~ (2) The state board of **education** shall approve procedures regarding the mediation process.

R 340.1724e ~~State due process hearings; application; effective date; reimbursement.~~ **Rescinded.**

~~Rule 24e. Effective immediately, R 340.1724e, R 340.1724f, R 340.1724g, R 340.1724h, and R 340.1724i apply to special education due process hearings and state level reviews of local due process hearing decisions. R 340.1724e, R 340.1724f, R 340.1724g, R 340.1724h, and R 340.1724i also apply to any due process proceeding required by a judicial order of remand rendered after July 1, 2006.~~

R 340.1724f ~~State d~~**Due process hearings complaints**; procedures.

Rule 24f.(1) **This rule applies only to due process complaints filed on or after July 1, 2006.**

~~(1)~~ (2) Due process ~~hearings~~ **complaints** under this rule shall be administered by the ~~D~~department of ~~E~~education.

~~(2)~~ (3) A parent, a public agency, or the ~~D~~department of ~~E~~education may initiate a hearing by filing a written due process ~~hearing~~ complaint with the ~~D~~department of ~~E~~education as required by 20 U.S.C. §1415(b) and by providing a copy of the due process ~~hearing~~ complaint to the other parties. **The due process complaint is properly filed when the department of education and the other party have received the complaint.**

~~(3)~~ (4) A hearing may be initiated on matters related to any of the following:

(a) Identification.

(b) Evaluation.

(c) Educational Placement.

(d) Provision of a free appropriate public education.

(e) Provision of appropriate Part C services to the child or the child's family.

(f) Assignment of financial obligations for Part C services to the parents.

(g) Determination that behavior was not a manifestation of the student's disability.

(h) Determination of an appropriate interim alternative educational setting by the individualized education program team.

(i) Placement in an interim alternative setting for not more than 45 school days, because maintaining the current placement is substantially likely to result in injury to the student or others.

~~(4)~~ **(5)** Upon receipt of a due process hearing complaint filed under subrule (2) of this rule on or after, July 1, 2006, the ~~D~~Department of ~~E~~ducation will forward ~~refer~~ the request ~~complaint~~ to the ~~S~~state ~~O~~ffice of ~~A~~administrative ~~H~~hearings and ~~R~~rules ~~who~~ **which** will appoint an ~~A~~administrative ~~L~~aw ~~J~~udge to conduct a hearing in accordance with the ~~I~~ndividuals with ~~D~~isabilities ~~E~~ducation ~~I~~mprovement ~~A~~act, 20 U.S.C. §1401 et. seq., the ~~Michigan Mandatory Special Education Act, 1976 PA 451, MCL 380.1701 et. seq. and, R 340.1883 to R 340.1885 and these rules.~~

~~(5)~~ **(6)** Any party who is aggrieved by the final decision in a hearing conducted under this rule ~~may not request a state level review under R 340.1724(6). Any party who is aggrieved by the final decision in a hearing conducted under this rule~~ may appeal to a court of competent jurisdiction within 90 days after the mailing date of the final decision.

~~(6)~~ **(7)** ~~In the absence of an appeal, u~~Unless otherwise specified in the ~~A~~administrative ~~L~~aw ~~J~~udge's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

R 340.1724g State review decisions. **Rescinded.**

~~Rule 24g. (1) State reviews authorized by 2000 AACCS, R 340.1724(6) and originating from a due process hearing complaint filed before July 1, 2006 shall be administered by the Department of Education.~~

~~(2) Upon receipt of a request for a state review filed under subrule (1) of this rule, the Department of Education will forward the request to the State Office of Administrative Hearings and Rules who will appoint an Administrative Law Judge to conduct the review in accordance with the Individuals with Disabilities Education Improvement Act, 20 U.S.C. § 1401 et. seq., the Michigan Mandatory Special Education Act, MCL 380.1701 et. seq. and R 340.1883 to R 340.1885.~~

~~(3) Any party who is aggrieved by the final decision in a state review conducted under this rule may appeal to a court of competent jurisdiction within 90 days after the mailing date of the final decision.~~

~~(4) In the absence of an appeal, unless otherwise specified in the Administrative Law Judge's state review decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.~~

~~(5) To the extent consistent with these rules, the state review process is governed by R 340.1724(6).~~

R 340.1724h Administrative ~~L~~aw ~~J~~udge training.

Rule 24h. The ~~D~~Department of ~~E~~ducation, in conjunction with the ~~S~~state ~~O~~ffice of ~~A~~administrative ~~H~~hearings and ~~R~~rules, will assure that ~~A~~administrative ~~L~~aw ~~J~~udges conducting hearings under these rules will be trained, as needed, regarding administrative law, administrative procedure, special education law, special education rules, special education policy, and special education practice.

R 340.1724i Reimbursement.

Rule 24i. **This rule applies only to due process complaints filed on or after July 1, 2006.** For purposes of MCL 380.1752, this rule replaces R 340.1882(4), which was rescinded. The district of residence or public school academy shall reimburse the State 75% of the costs related to providing the due process hearing.

R 340.1738 Programs for students with severe cognitive impairment.

Rule 38. Programs for students with severe cognitive impairment shall be operated as follows:

(a) There shall be 1 teacher and 2 instructional aides for a maximum of 12 students. The maximum number of students may be extended to 15 if an additional instructional aide is assigned with the placement of the thirteenth student. At least 1 full-time teacher and 1 full-time aide shall be employed in every program for students with severe cognitive impairment.

~~(b) Programs for students with severe cognitive impairment shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.~~

~~(c)~~ (b) Teachers shall be responsible for the instructional program and shall coordinate the activities of aides and supportive professional personnel.

~~(d)~~ (c) Instructional aides shall work under the supervision of the teacher and assist in the student's daily training program.

~~(e)~~ (d) Program assistants may assist the teacher and the instructional aides in the feeding, lifting, and individualized care of students with severe cognitive impairment.

~~(f)~~ (e) A registered nurse shall be reasonably available.

R 340.1748 Programs for students with severe multiple impairments.

Rule 48. (1) Programs and services for students with severe multiple impairments shall consist of at least 1 teacher and 2 instructional aides for a maximum of 9 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every program for students with severe multiple impairments.

~~(2) Programs for students with severe multiple impairments shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.~~

~~(3)~~ (2) A registered nurse shall be reasonably available.

R 340.1771 Director of special education; education and experience requirements.

Rule 71. (1) For full approval, a director of special education shall possess all of the following minimum qualifications:

(a) ~~An earned~~ master's degree or ~~equivalent~~ **higher**.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful professional practice or administrative experience in special education, or a combination of practice and experience.

(d) Thirty semester or equivalent hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency as related to special education in all of the following areas:

- (i) Program development and evaluation.
- (ii) Personnel staffing, supervision, and evaluation.
- (iii) ~~Interpersonal relationships, communications, persuasion, and morale~~ **Verbal and written communication.**
- (iv) ~~Evaluation of inservice organization and management~~ **Leadership of professional development.**
- (v) ~~Budgeting, financing, and reporting~~ **Budget development and fiscal reporting.**
- (vi) ~~Parent relationships~~ **Fostering parental, family, and community involvement.**
- (vii) School plant planning.
- (viii) ~~(vii)~~ **Consultation and collaboration.**
- (ix) ~~Research and grant writing.~~
- (x) ~~Office management, including office automation.~~
- (xi) ~~(viii)~~ **School-related legal activities and due process hearing** **Dispute resolution.**
- (xii) ~~(ix)~~ **Computer-assisted management** **Data-based decision-making.**
- (x) **Conflict management.**
- (xi) **Legal and ethical issues.**

~~(e) One year of successful experience as a special education director in an approved special education program.~~

~~(f) (e) Verification from a college or university approved for the preparation of special education directors which attests that the person has acquired the knowledge and competencies in subdivision (d) of this subrule and has demonstrated leadership ability and general knowledge of issues and problems in all disability areas of special education.~~

(2) A director of special education ~~programs~~ who has full approval status shall maintain full approval status indefinitely.

(3) For temporary approval, a director of special education shall possess all of the following minimum qualifications:

- (a) ~~An earned~~ master's degree or **equivalent higher.**
- (b) Full approval in at least 1 area of special education.
- (c) Three years of successful professional practice or administrative experience in education, or a combination of practice and experience.
- (d) Twelve semester or equivalent hours of graduate credit ~~and a successful 200-clock-hour practicum~~ in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education ~~and shall be distributed appropriately to assure knowledge and competency related to special education in the areas designated in subrule (1)(d) of this rule.~~

(e) The college or university approved for the preparation of special education directors shall verify enrollment in the director of special education preparation program and ~~the completion of the practicum specified in subdivision (d) of this subrule~~ **12 semester or equivalent hours of graduate credit.**

(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or equivalent hours of required credit toward full approval before the beginning of the next school year.

(5) Any person who has completed all ~~course work and practicum~~ **program** requirements in effect before the effective date of these rules shall ~~only be required to complete 1 year of successful experience as a director to gain~~ **be eligible for full approval as a director of special education.**

R 340.1772 Supervisor of special education; education and experience requirements.

Rule 72. (1) For full approval, a supervisor of special education shall possess all of the following minimum qualifications:

(a) ~~An earned~~ master's degree or ~~equivalent~~ **higher.**

(b) Full approval in at least 1 area of special education.

(c) Three years of successful experience in special education.

(d) Twelve semester or equivalent hours of graduate credit in a college or university whose program has been approved by the state board of education. Graduate credit shall be distributed appropriately to assure knowledge and competency as related to special education in all of the following areas:

(i) ~~Systematic study of~~ **Curriculum and instruction.**

(ii) ~~Administrative and supervisory~~ procedures.

(iii) ~~Evaluation methods and procedures~~ **Personnel supervision and evaluation.**

(iv) Communication skills ~~techniques.~~

(v) ~~Inservice education~~ **Leadership of professional development.**

(vi) ~~Computer-aided instruction~~ **Facilitation of effective instruction.**

(vii) **Data-based program improvement.**

(viii) **School law and policy.**

~~(e) One year of successful experience as a supervisor of special education in an approved special education program.~~

~~(f) (e) Verification from a college or university approved for the preparation of special education supervisors relative to leadership, knowledge, and competency in the areas listed in subdivision (d) of this subrule.~~

(2) A supervisor of special education ~~programs~~ who has full approval status shall maintain full approval status indefinitely.

(3) For temporary approval, a supervisor of special education shall possess all of the following minimum qualifications:

(a) ~~An earned~~ master's degree or ~~equivalent~~ **higher.**

(b) Full approval in at least 1 area of special education.

(c) Three years of successful experience in special education.

(d) Verification from a college or university approved by the state board of education for preparation of special education supervisors of enrollment in the supervisor of special education program.

(4) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or equivalent hours of required credit toward full approval before the beginning of the next school year.

(5) Any person who has completed all ~~course work and practicum~~ **program** requirements in effect before the effective date of these rules shall ~~only be required to complete 1 year of~~

~~successful experience as a supervisor to gain~~ **be eligible for full approval as a supervisor of special education.**

R 340.1790 Teacher consultants for students with disabilities.

Rule 90. In addition to meeting all of the requirements of R 340.1782, a teacher consultant shall meet ~~all~~ **both** of the following requirements for full approval by the state board of education or its designee:

- (a) Possess a master's degree in education or a field of study related to special education.
- ~~(b) Recommendation to the department by the employing superintendent, or his or her designee, for approval as a teacher consultant.~~
- ~~(c)~~ **(b)** Show evidence of a minimum of 3 years of satisfactory teaching experience, not less than 2 years of which shall be teaching in a special education program.

R 340.1810 Reimbursement of special education transportation.

Rule 110. Specialized transportation or additional transportation, or both, as required in the individualized education program for a ~~handicapped~~ person **with a disability** to receive a free appropriate public education in the least restrictive educational environment, shall be reimbursable as authorized by 1979 PA 94, ~~as amended~~, MCL 388.1601 et seq., and known as the state school aid act of 1979.

R 340.1832 Content areas.

Rule 132. ~~(4)~~ An intermediate school district plan for special education, or any modification thereof, shall be an operational plan that sets forth the special education programs and related services to be delivered. The plan shall comply with 1976 PA 451, MCL 380.1 et seq. and these rules. The plan shall also comply with the following format and include, at a minimum, all of the following:

- (a) A description of the procedures used by the intermediate school district to advise and inform students with disabilities, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local school districts, public school academies, and intermediate school district; and the title, address, and telephone number of representatives of those agencies who can provide information about the special education opportunities.
- (b) A description of activities and outreach methods which are used to ensure that all citizens are aware of the availability of special education programs and services.
- (c) A description of the type of diagnostic and related services that are available, either directly or as a purchased service, within the intermediate school district or its constituent local school districts or public school academies.
- (d) A description of the special education programs designed to meet the educational needs of students with disabilities.
- (e) The intermediate school district plan shall either describe special education programs and services under part 3 of these rules or shall propose alternative special education programs and services.
- ~~(f) The plan shall be approved by the superintendent of public instruction before implementation under R 340.1831(1). The plan is developed and approved under R 340.1833, and R 340.1835 to R 340.1837.~~ **Provide an assurance statement that any**

personally identifiable data, information, and records of students with disabilities are collected, used, or maintained in compliance with 34 C.F.R. §§300.610 through 300.626.

(g) The identity of the full- or part-time constituent local school district or public school academy administrator who, by position, is responsible for the implementation of special education programs and services.

(h) A description of the qualifications of paraprofessional personnel.

(i) A description of the transportation necessary to provide the special education programs and services described in subdivisions (c), (d), and (e) of this subrule.

(j) A description of the method of distribution of funds under R 340.1811(5).

(k) A description of how the intermediate school district will appoint the parent advisory committee members under R 340.1838(1) and (2).

(l) A description of the role and responsibilities of the parent advisory committee, including how it shall participate in the cooperative development of the intermediate school district plan, formulate objections thereto, if any, and **other** related matters, ~~such as the role and responsibility of the parent advisory committee in evaluating special education programs and services within the intermediate school district.~~

(m) A description of the role and relationship of administrative and other school personnel, as well as representatives of other agencies, in assisting the parent advisory committee in its responsibilities.

(n) A description of the fiscal and staff resources that shall be secured or allocated to the parent advisory committee by the intermediate school district to make it efficient and effective in operation.

(o) The plan shall be approved by the superintendent of public instruction before implementation under R 340.1831(1). The plan is developed and approved under R 340.1833; and R 340.1835 to R 340.1837.

R 340.1837 Approval of intermediate school district plans.

Rule 137. (1) Intermediate school district plans, or modification thereof, or any changes to the intermediate school district plan based on an objection to the plan, shall be approved by the superintendent of public instruction under R 340.1836. The intermediate school district plans or modifications shall be in compliance with all of the following:

(a) The provisions of sections 1701 to 1766 of 1976 PA 451, MCL 380.1701 to 380.1766.

(b) Michigan rules promulgated to implement statutory provisions for special education programs and services.

(c) The individuals with disabilities education act, 20 U.S.C. §1400 et seq., and its implementing regulations, 34 C.F.R. §300.1 et seq., adopted by reference in R 340.1701.

(2) **The intermediate school district boards of education, shall advise each** constituent local school ~~boards~~ **district superintendent, each chief executive officer of a public school academy** ~~academy~~, and the **chairperson of the** parent advisory committee ~~shall be advised by the superintendent of public instruction~~ **was approved by the superintendent of public instruction.**

R 340.1861 Records; maintenance; content; transfer of records; release of records.

Rule 161. (1) A registry shall be maintained by intermediate school districts under procedures established by the department and under the provisions of 1976 PA 451, MCL 380.1711, for all students with disabilities, as defined by R 340.1702, including students

placed in state and privately operated facilities. The registry shall be an operational, active database system with the capacity to provide up-to-date student counts and other data requirements to the department on a timely basis. Each constituent local school district, public school academy, or state agency shall provide the intermediate school district with a complete updated data record for each student with a disability. The updated record shall contain full-time equivalency data for each student enrolled in a special education program by the student count dates required in the state school aid act, 1979 PA 94, MCL 388.1601 et seq., and shall contain each student's data enrolled in programs and services by the student count date required by the regulations implementing the individuals with disabilities education act, 34 C.F.R. §300.1 et seq.

(2) If the residency of a student with a disability changes from one intermediate school district to another, then the intermediate school district of previous residence shall transfer the records maintained under this rule to the new intermediate school district upon written request of the intermediate school district of residence and the parent of the student with a disability for whom the record was maintained.

(3) Public agencies shall comply with 34 C.F.R. 300.610 to 300.626.